

capable of conducting review if HCFA determines that the organization is able to set quantifiable performance objectives and perform the utilization and quality review functions established under section 1154 of the Social Security Act in an efficient and effective manner.

(b) HCFA will determine that the organization is capable of conducting utilization and quality review if—

(1) The organization's proposed review system is adequate; and

(2) The organization has available sufficient resources (including access to medical review skills) to implement that system; and

(3) The organization's quantifiable objectives are acceptable.

(c) HCFA may consider prior similar review experience in making determinations under paragraph (b) of this section.

(d) A State government that operates a Medicaid program will be considered incapable of performing utilization and quality review functions in an effective manner, unless the State demonstrates to the satisfaction of HCFA that it will act with complete independence and objectivity.

§ 475.105 Prohibition against contracting with health care facilities.

(a) *Basic rule.* Except as permitted under paragraph (b) of this section, the following are not eligible for PRO contracts:

(1) A health care facility in the PRO area.

(2) An association of health care facilities in the PRO area.

(3) A health care facility affiliate; that is, an organization in which more than 20 percent of the members of the governing body are also either a governing body member, officer, partner, five percent or more owner, or managing employee in a health care facility or association of health care facilities in the PRO area.

(b) *Exceptions.* Effective November 15, 1984, the prohibition stated in paragraph (a) of this section will not apply to a payor organization if HCFA determines under § 462.106 that there is no other eligible organization available.

(c) *Subcontracting.* A PRO must not subcontract with a facility to conduct

any review activities except for the review of the quality of care.

[50 FR 15328, Apr. 17, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

§ 475.106 Prohibition against contracting with payor organizations.

Payor organizations are not eligible to become PROs for the area in which they make payments until November 15, 1984. If no PRO contract for an area is awarded before November 15, 1984, a payor organization will be determined eligible by HCFA, if an eligible organization that is not a payor organization is unavailable at that time. HCFA may determine the unavailability of nonpayor organizations based on the lack of response to an appropriate Request for Proposal.

[50 FR 15328, Apr. 17, 1985]

§ 475.107 PRO contract award.

HCFA, in awarding PRO contracts, will take the following actions—

(a) Identify from among all proposals submitted in response to an RFP for a given PRO area all proposals submitted by organizations that meet the requirements of § 462.102 or § 462.103;

(b) Identify from among all proposals identified in paragraph (a) of this section all proposals that set forth minimally acceptable plans in accordance with the requirements of § 462.104 and the RFPs;

(c) Assign bonus points not to exceed 10% of the total points available to all physician-sponsored organizations identified in paragraph (b) of this section, consistent with statute; and

(d) Subject to the limitations established by §§ 462.105 and 462.106, award the contract for the given PRO area to the selected organization for a period of two years.

[49 FR 7207, Feb. 27, 1984. Redesignated and amended at 50 FR 15327, 15328, Apr. 17, 1985, and further redesignated at 64 FR 66279, Nov. 24, 1999]

PART 476—UTILIZATION AND QUALITY CONTROL REVIEW

Subpart A—General Provisions

Sec.
476.1 Definitions.